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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

URQU.P-019

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on _____

Signature _____

Typed or printed name _____

Application Number

10/549,551

Filed

9/19/2005

First Named Inventor

Caroen

Art Unit

3654

Examiner

Braham

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

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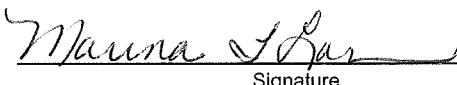
applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

attorney or agent of record.
Registration number 32,038

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____



Signature

Marina T Larson

Typed or printed name

970-262-1800

Telephone number

June 15, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.



*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Applicants request a pre-appeal brief review of this application.

Obviousness Rejection of Claim 24 and Claims Dependent Thereon

Independent claim 24 and dependent claims 5, and 10-12 are rejected under 35 USC § 103(a) as unpatentable over Tremblay (US 5,373.915) in view of Nicholas (US 3,272,557). Dependent claims 3, 4, 7, 8 and 13 are rejected under 35 USC § 103(a) based on this combination plus additional references.

In order to present a prima facie case of obviousness, the Examiner must address each and every limitation in the claims. In this rejection, the Examiner has not done this, and thus has failed to present a prima facie case of obviousness.

The invention as described in claim 24 is a stairlift chair and which includes a “containment device” (i.e. a seat belt) with specific features recited in the claim. The Tremblay device is a stair lift chair, and it has a seat belt, the Examiner acknowledges (Office Action of 12/17/2008, ¶ 2) that this seat belt does not have any of the features required in claim 24. For these features, the Examiner cites Nicholas.

These features of the claimed structure can be seen from Fig. 4 reproduced here for convenience.

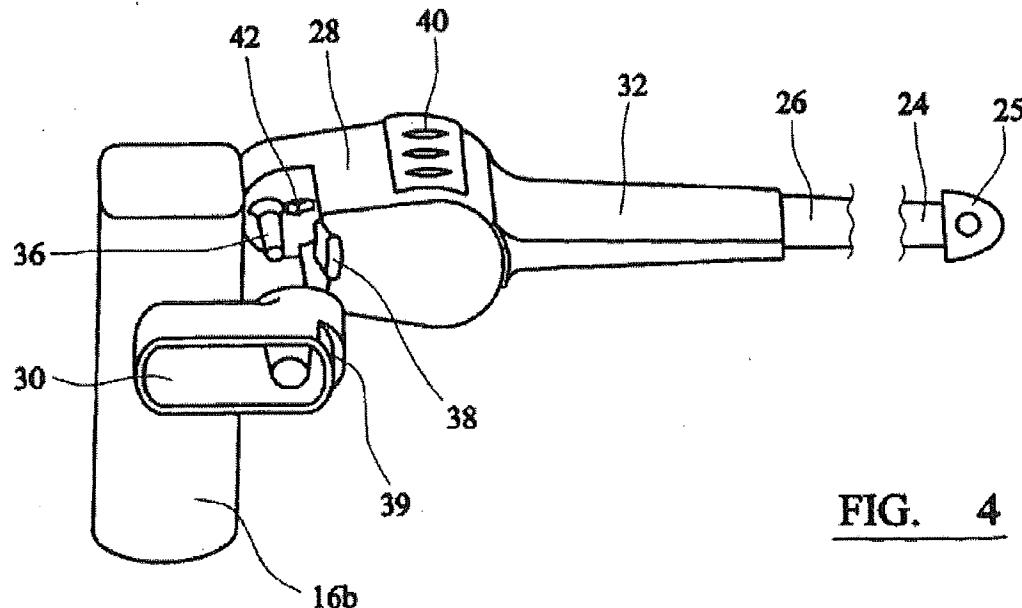


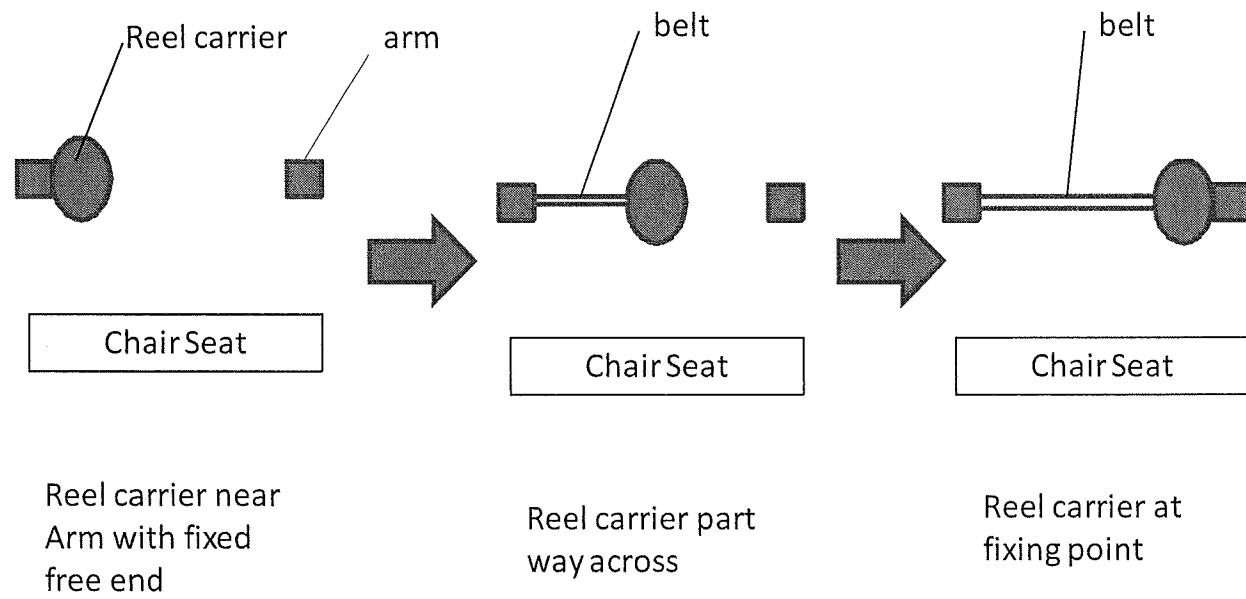
FIG. 4

As recited in claim 24, the structure of the containment device in the claimed invention is:

a fixing point (30) mounted on or adjacent one of said spaced sides;
a reel carrier (28) having a housing sized and shaped to locate comfortably within a user's hand and having a fixing component integral with the housing, which fixing component is engageable with the fixing point;
a reel rotatably mounted in said reel carrier;
a length of belt (26) wound onto, and fixed at one end to, said reel and having an opposite free end (25), wherein the opposite free end is fixed on or adjacent to the other of said spaced sides, and wherein said reel carrier is displaceable laterally between said spaced sides to position said fixing component for engagement with said fixing point.

(reference numerals relevant to Fig. 4 have been added).

Schematically, the operation of the containment device of the invention (when viewed from the front of the chair) can be depicted as follows:



Nicholas describes a seat belt for use in an automobile (not a stairlift chair) that includes a belt retractor. In all of the depicted embodiments of Nicholas, this retractor is fixed on the floor, beside the seat not on a side of the seat, for example retractor 40 is within receptacle 20 shown in the figures. The Examiner, however, relies on a single line of text in Nicholas which reads:

The retractor may be one which travels with the belt, or it may be one which is permanently secured to the ear 41, and thereby remains stationary within the receptacle.

(Col. 2, lines 70-71). The Examiner equates this one very general statement with a teaching of

all of the limitations of the claim acknowledged to be missing from the Tremblay reference. The Examiner has offered no evidence of what kind of retractor that travels with the belt was known at the time of the Nicholas patent, nor has he offered any reasons as to why a person skilled in the art would assume or understand from Nicholas that the limitations of claim 24, in which the fixing component is part of the housing, were taught by this statement in Nicholas. Indeed, since the same spring loaded retraction mechanism is said to be used regardless of the position, it must be understood that the retraction occurs in response to a loss of tension on the belt. (Col. 3, lines 1-5) Thus, no requirement for a retractor housing that directly interacts with the fixing point when the belt is buckled can be inferred.

Obviousness Rejection of Claim 19

Independent claim 19 is rejected over the combination of Tremblay, Nicholas and Berton. Claim 19 recites a stairlift chair with a containment device. The containment device has a housing/reel carrier that is like the ones discussed above. The containment device of claim 19, also has a second (shoulder) belt fixed at one end to a raised part of the chair and at the other end to the reel carrier.

As discussed above, Nicholas does not disclose a reel carrier housing combination like that of the claims. Berton discloses a shoulder belt and a lap belt combination. Each is closed by a separate buckle mechanism 19 in the middle of the belt. Thus adding the shoulder belt of Berton to the combination of Tremblay and Nicholas would not result in the claimed invention, since there is no teaching in Berton of the shoulder belt being even attached to a common buckle with the lap belt. Thus, this combination of references does not teach all of the elements of claim 19 for this additional reason.